

**State Water Resources Control Board  
Division of Financial Assistance  
Water Recycling Funding Program (WRFP)**

**Response to Questions and Comments on Draft Water Recycling Funding Program Guidelines  
October 8, 2004**

Note: Comments have been grouped according to the applicable section of the WRFP Guidelines.

Comment	Response
Section I. Introduction	
I.A. Water Recycling Funding Programs	
There is not an educational component proposed. If there were an educational or outreach component, a short movie could be made with a distribution component. The movie could be used as a tool to motivate the city engineers to recycle municipal wastewater and not discharge it.	According to the constraints of the various laws governing the funding sources for the Water Recycling Funding Program, funding is limited to planning, design and construction of water recycling projects.
I.B. Program Funding Sources	
What will happen to the Facilities Planning Grant Program once loans are fully repaid?	Loan repayments, except for 1984 bond law loans, are deposited in an account to be used for new construction loans and grants, planning grants, research and administration as specified in Proposition 13 (2000 bond law). Because of use of a portion of the repayments for grants, the revolving loan account will eventually diminish. However, planning grants should be sustainable for many years.
I.E. General Program Requirements	
The Guidelines do not address the requirement of having a Labor Compliance Program in place before being able to take advantage of Proposition 50 grants.	A new Section I.E has been added to the draft Guidelines to include provisions for compliance with this requirement in the California Labor Code.

Comment	Response
<p>Section I.E.3: The revised guidelines do not address the federal Davis-Bacon Act, which requires prevailing wages for certain federally funded construction projects. This act overlaps California Labor Code provisions requiring prevailing wages for construction workers, leading to potential confusion in administering projects. Because the State Revolving Fund is funded by federal grants and various state and local money, there is concern whether the Davis-Bacon Act is applicable. Some applicants may apply for both a state grant and an SRF loan for a project.</p>	<p>The California Labor Code applies to all water recycling funding programs, including the State Revolving Fund. The Davis-Bacon Act does not apply to the State Revolving Fund or state bond funds. Note also Section X.E of the "Policy for Implementing the State Revolving Fund for Construction of Wastewater Treatment Facilities."</p>
Section II. Facilities Planning Grant Program	
II.A. Funding Criteria	
<p>It is stated in item 1, "The grant will cover 50 percent of eligible costs up to \$75,000." Is this per grant or a total for any number of grants?</p>	<p>This limitation is per planning study. An agency can receive multiple planning grants for distinctly different studies.</p>
<p>Item 4: Is there a deadline for the Draft Facilities Planning Report review? If not, what happens if an applicant receives a 50 percent grant payment for the draft and does not meet the deadline for the final report submittal? Will the applicant have to pay back the 50 percent payment so that it can be committed to other projects?</p>	<p>There is no deadline for the review of the draft Facilities Planning Report. The failure to submit a final report could be considered a breach of the grant agreement, which could be grounds for paying back the grant. If such a situation occurs, The Division staff will evaluate the circumstances to determine the course of action.</p>
II.C. Application Requirements	
<p>We request that the process or schedule associated with getting approval of Proposition 50 funding not stand in the way or slow down the progress of the planning, design, or construction of a project seeking Proposition 50 funding. We recommend that any eligible costs (as defined in Appendix C) that are incurred prior to project approval by the SWRCB should count towards the local share of the project. Particularly, the concept from Section III.A regarding retroactive costs being eligible for Chapter 7 funding should apply to the planning study costs as outlined in Section II.C.</p>	<p>Planning grants applications have been accepted on an on-going basis under the current guidelines. Therefore, there is no need to qualify retroactive funding for planning studies.</p>

Comment	Response
<p>It is recommended that the application requirements for this program be modified and streamlined. Specifically, it is recommended that Plan of Study required for each grant application under this program be limited to no more than 8 to 10 pages. Given the \$75,000 maximum limit for funding under this program, it is believed that this will allow more funding to be allocated to project implementation versus project grant application and administration efforts.</p>	<p>Applicants in the past have been able to prepare Plans of Study of around 10 pages or less without specifying a page restriction.</p>
<p>The SWRCB should allow all proposed projects on the eligibility list for the Facilities Planning Grant, prior to adoption of the guidelines and approval of removal of the CEQA requirement, to receive the same benefit as later project applications that do not have to provide adopted CEQA documents to receive final payment.</p>	<p>There is no list of projects that are eligible for Facilities Planning Grants. The proposed Competitive Project List will apply to construction grants only. However, the Division staff will further evaluate this comment and present a recommendation to the SWRCB, because this proposal would require Board action).</p>
<p><b>II.D. Review and Approval of Draft and Final Facilities Planning Report</b></p>	
<p>The draft indicates that a Planning Study consists of five elements. It is not clear whether all planning studies must include all of these elements in order to be considered for a grant. The statement that, "The level of detail should be commensurate with the size and complexity of the proposed project," is quite appropriate.</p>	<p>The intent is that all five elements be included in a planning study, but the content may incorporate material from prior reports. The draft guidelines have been revised for clarification.</p>
<p>The Final Facilities Planning Report Submittal includes recycled water market assurances. For a \$75,000 planning grant obtaining market assurances may be difficult to accomplish. It is recommended to remove market assurances as a requirement.</p>	<p>The \$75,000 grant and the associated matching funding are not intended to limit the amount an applicant can or should spend to complete the facilities planning process. The intent of the state planning grant is to assist the applicant to complete facilities planning and be ready to apply for design and construction funding of the selected alternative project. Regarding market assurances to be provided for planning grants, the guidelines have been revised to clarify that only preliminary recycled water market assurances are required as part of the planning grant. These assurances consist of letters of intent from planned users, description of planned future connections, and either draft mandatory use ordinance or draft model user contract. Identification of assurances proposed to be used is an important part of project planning and, therefore, applicable.</p>

Comment	Response
It is recommended to delete the requirement for obtaining approval of environmental documents. It is infeasible to proceed with an environmental approval on water recycling alternatives generated out of a \$75,000 planning grant. The environmental approval process can cost hundreds of thousands of dollars, depending on the alternatives proposed.	The existing requirement for completion of environmental documents has been removed from the draft Guidelines for a planning grant. However, it is required that the applicant complete the California Environmental Quality Act requirements before receiving a design and construction grant.
Why is the grant limited to 75 percent of the approved grant commitment if an applicant terminates the planning study prior completion of all tasks specified? Why not limit it to the amount expended? This seems arbitrary? A complete planning analysis could reasonably conclude that all studied alternatives are "infeasible" and yet all scope of services were completed and expended. In such a case the full \$75,000 grant should be made.	The reduction of the planning grant amount is based on the assumption that the study was terminated without completing all tasks specified in the Plan of Study Approval. If all tasks are completed and a final report is submitted with the conclusion that a project is infeasible, then the full grant amount would be paid.
<b>II.E. Funding Restrictions and Eligible Costs</b>	
The draft states that a "force account" is needed to track agency costs if an agency chooses to use its own staff resources to conduct the planning study. Please clarify if a force account is required for tracking all agency staff time, even if an outside consultant conducts the majority of the study.	As a general rule, applicants must have an accounting system to account for the receipt and expenditure of all state funds, including payments for contracted work. For force account work, the accounting system must be able to track all staff time and materials expenses directly related to the planning study if the applicant wants these expenses to count toward the total eligible cost, even if a majority of the work was done by a consultant.
What if there is a failure to meet the deadline for final report submittal?	The Guidelines allow for a one-time 12 month extension to the report submittal deadline without expiration of the grant commitment. The applicant must submit this request in writing with justification.
Please define "grant commitment date."	The Guidelines have been revised to clarify this and to add the word "preliminary" to "grant commitment" to conform to the defined term in Appendix H. The preliminary grant commitment date is the date of SWRCB approval of the funding for the proposed project or study.

Comment	Response
Section III. Construction Funding Program	
III.A. Funding Criteria	
How does the submittal process change if an applicant applies for aid in the middle of a project?	The application process does not change if an applicant has started construction before applying for funding. An applicant is not assured of funding until all submittals and approvals have been obtained. For this reason, it is not recommended that an applicant start construction unless it is prepared to fund the project without state funding.
The funding criteria states that construction grants be limited to 25 percent of eligible construction costs of a proposed project or \$5 million, whichever is less. We feel that the grant limitation should be increased to 50 percent of eligible construction costs. Incentives greater than 25 percent of project costs are needed for water recycling projects of a moderate to small size. We believe that moderate and smaller size communities will benefit from a greater percentage of eligible construction costs to be covered by SWRCB grants. Larger entities are more likely to be able to afford a 75 percent contribution to a grant, whereas smaller to medium size communities need extra grant funding.	The proposed maximum grant amount is recommended on the basis that funds are limited. State Revolving Fund low-interest loans may be available to fund the remaining eligible construction costs, raising the subsidy to about 45 percent for projects costing less than \$20 million. The currently proposed funding percentage and maximum proved to be successful in the previous Proposition 13 water recycling construction funding program.
The Guidelines should clearly state acceptable sources of matching funds in addition to the defined "force account," i.e., other state funds, federal funds, and local funds, including in-kind services, etc.	There is no restriction on the sources of matching funds for the Water Recycling Funding Program.
It is recommended that the process or schedule associated with getting approval for Proposition 50 funding should not stand in the way or slow down the progress of the planning, design, or construction of a project seeking Proposition 50 funding. Therefore, it is recommended that any eligible costs (as defined in Appendix C) that are incurred prior to project approval by the SWRCB should count towards the local share of the project.	The Guidelines allow retroactivity of eligible costs to January 1, 2004, to accommodate this concern.
It is recommended that construction grants be increased to 50 percent of eligible construction cost of a proposed project or \$5 million, whichever is less. It is believed that this will help implement eligible projects more quickly.	The proposed maximum grant amount is recommended on the basis that funds are limited. State Revolving Fund low-interest loans may be available to fund the remaining eligible construction costs, raising the subsidy to about 45 percent for projects costing less than \$20 million. The currently proposed funding percentage and maximum proved to be successful in the previous Proposition 13 water recycling construction funding program.

Comment	Response
<p>The SWRCB will allow construction grants to be combined with any other source of funding the applicant may be eligible to obtain, including other State of California sources. It is understood that this applies to all eligible projects so long as the funding secured does not exceed 100 percent of the overall project cost.</p>	<p>This understanding is correct unless there is a restriction placed on the other funding sources.</p>
<p>In drafting up similar funding guidelines for Proposition 50, Chapter 8, SWRCB and the Department of Water Resources have recognized that small percentage grants merely subsidize project that would be built anyway and do not change the status quo (i.e., by encouraging projects that would not be built otherwise, or at least not on the same schedule). Those guidelines allow for construction grants of up to 90% (and with a much higher dollar cap). For this reason, we recommend that the WRFPP construction grants be increased to at least 50 percent maximum. We believe some consideration should also be given to increasing the \$5 million cap, but that is a less critical concern.</p>	<p>The proposed maximum grant amount is recommended on the basis that funds are limited. State Revolving Fund low-interest loans may be available to fund the remaining eligible construction costs, raising the subsidy to about 45 percent for projects costing less than \$20 million. The currently proposed funding percentage and maximum proved to be successful in the previous Proposition 13 water recycling construction funding program.</p>
<p>Priority should be provided for "return on investment." Projects that are most valuable (i.e., Category I projects that would produce a relatively large amount of recycled water use for the dollars invested) but are constrained by lack of local funding would have a high return on investment for grant funds. Ideally, the level of grant would be tailored to the project need; i.e., the grant should be negotiated to be just large enough to stimulate the project to proceed. The guidelines do not, at present, appear to allow for these considerations.</p>	<p>Basing the level of funding on the financial need of individual applicants is not feasible. The primary gauge of return on investment is whether projects are successfully implemented and delivering recycled water as planned.</p>
<p><b>III.B. Placement on Competitive Project List</b></p>	
<p>The Guidelines should include and clearly define the 60 and 90-day timeline of the Guidelines adoption, submittal of the CPL Placement Questionnaire, Initial Application Submittal Period, and State Board Adoption of the CPL. It should be clarified that, during the 90-day Initial Application Submittal Period, all projects are considered to have been submitted at the same time; and, after the 90-day period, applications change to a first-come first-served basis, consistent with the familiar State Board policy.</p>	<p>The Guidelines have been revised to add clarification. In addition, the schedule for the CPL will be incorporated into an announcement following adoption of the Guidelines. Additional clarification of the application process is described in Section III.D.</p>

Comment	Response
Category I of the CPL includes eligibility criteria that a project provides "direct benefits" to the Delta. "Direct benefits" should be more clearly defined within the Guidelines.	The word "direct" has been deleted. The two specific benefits (increasing flow into or reducing pumping from the Delta) are described.
For projects that do not receive funding and remain on the CPL for possible future funding, will construction cost adjustments be allowed to be made by the applicant at the time of SWRCB recommendation for funding to account for changes in the CPL?	A potential applicant can request that estimated costs of a project on the CPL be revised. However, the cost estimates used for managing the CPL do not affect the eligible cost of a grant or loan. Placement on the CPL is not a commitment to fund a project. A funding application must be submitted and approved. At the time of submitting a funding application, revised estimated costs can be included in the funding application. The eligible cost will finally be determined based on construction bids.
The Guidelines indicate that the CPL "will be continuously updated and posted on the website for public review and comments." Clarify what time frame "continuously" refers to. Confirm if updates will correspond when projects are funded and come off the CPL and/or if new projects are added to the CPL.	"Continuously" refers only to the first 60 days following adoption of the Guidelines. This has been clarified. The draft CPL targeted for adoption approximately 90 days following adoption of the Guidelines. However, projects may be added to the CPL at any time that an application is anticipated, as noted in Appendix D and in revised Section III.B.
The Water Recycling Funding Program Guidelines should include the anticipated funding cycle for Proposition 50 (i.e., one cycle). In addition, the anticipated funding cycle(s) for projects funded by the Proposition 13 Loan Repayment Fund should be described.	The initial CPL will be used for allocation of the \$42 million available from Proposition 50. It is too early to estimate a schedule for availability of Proposition 13 funds.
Can a project remain on the CPL indefinitely? The Guidelines should state what is required for a project to remain on the CPL.	Projects that have not received funding will remain on the CPL. From time to time it may be necessary to reconsider the entire list, in which case there will be an announcement for submittal of new questionnaires.
The Guidelines should clarify the process of getting projects that did not get funded by Proposition 50 funds on the SRF Priority List.	The procedures for the State Revolving Fund priority list are described in "Policy for Implementing the State Revolving Fund for Construction of Wastewater Treatment Facilities."
The Guidelines should explain how the Water Recycling Program proposed projects on the SRF Priority List will be compared to other projects on the SRF priority list. In other words, explain that projects from various funding programs are all on the same SRF priority list and will be compared against each other.	Water recycling projects that are intended to serve water supply purposes are placed in Class C on the SRF priority list, as described in the SRF Policy cited above. Projects within classes are ranked according to readiness to proceed. The SRF priority list serves only the SRF program and does not affect funding from other sources for water recycling funds. In order to receive state grant funds, a project must be on the Water Recycling Construction Program CPL.

Comment	Response
Category I should be refined to state that projects will “offset water supplies from State water supply” instead of “State Water Project”.	This language has been revised to delete reference to the State Water Project.
It is important to consider an applicant's readiness to proceed. Far too often projects languish in the planning stages, never coming to fruition. It would be beneficial to provide priority to those projects that are ready for construction, ensuring use of the funds in a timely manner.	Readiness to proceed is a significant factor in the ranking and funding of projects. As noted in Appendix D, projects in a fundable category on the Competitive Project List must be ready to proceed within the following three years. Readiness to proceed means that all planning tasks, including completion of environmental review requirements, for a project have been completed and the design is ready to commence.
Category I: Does State Water Project in this context apply to only agencies that directly, as wholesalers or retailers, obtain water from the State Water Project? Are projects that result in increases to the State Water Project system (e.g., through additional supplies to the Mokelumne River) through the use of recycled water also eligible? It seems that since these funds were intended by the people of California to apply to improve water supply, a broad definition of "water supplies from the State Water Project" should be applied. by applying a narrow definition of State Water Project, most San Francisco Bay Area projects would not be considered to be in Category I and, therefore, would not be fundable.	This language has been revised to replace reference to the State Water Project with "State water supply."
Category I: The basis for limiting the offset to the State Water Project and excluding Delta tributaries unconnected to the State Water Project is unclear, and should be eliminated. Recycled water projects serving the East Bay Municipal Utilities District also provide direct benefits to the Delta by increasing the average water flow into the Delta in normal and wet years.	This language has been revised to replace reference to the State Water Project with "State water supply."
<b>III.C. Projects Eligible to Compete for Funding</b>	
It is indicated that Proposition 50 funding is limited to Category I and the other Categories cannot be funded until non-Proposition 50 funds become available. This limitation appears to be far too restrictive and should be amended to allow both Category I and Category II to compete for Proposition 50 funding. This is particularly important in order to achieve the geographic distribution of funds required by Proposition 50, since it will be difficult for most Southern California agencies to meet Category I requirements.	As noted in Section I.B of the Guidelines, Proposition 50 funds for water recycling come from funds designated for the CALFED Bay-Delta Program. As such, all projects must have a benefit to the Delta area, thus excluding Category II. Because many Southern California agencies rely upon imported water from the Delta, it can be demonstrated that water recycling can offset Delta exports and benefit the Delta. Revisions to the definition of Category I further clarifies this.



Comment	Response
How and when does an applicant obtain a preliminary commitment? It is recommended that a preliminary commitment be established following completion of Master Plan and Board of Supervisors project approval and before awarding a contract.	As described in Section III.F of the Guidelines, the preliminary funding commitment is issued after an SWRCB staff-level Facilities Plan Approval. This is consistent with the recommendation.
Will Category I projects obtain funding from Proposition 13 funds if none are available from Proposition 50? If so, how will this affect the planning grant program?	Proposition 13 funds, including loan repayments from existing construction loans, can be used for new construction loans and grants, planning grants, research, and administration. Fifty percent is reserved by law for construction grants. If repayments accumulate sufficiently, Proposition 13 construction grants and loans will be available for Categories I through IV projects. In the meantime, there are sufficient Proposition 13 funds for planning grants, and this is expected to continue into the foreseeable future.
Explain in Section III why only Category I projects are eligible for Proposition 50 funding. This information is not provided until Appendix D and leaves the potential applicant wondering if other categories can get Prop 50 funds throughout the Guidelines until they get to Appendix D.	The basis of restricting Proposition 50 funds to Category I projects is inferred in Section I.B.1. These funds are designated in the proposition for meeting the objectives of the CALFED Bay-Delta Program. The draft Guidelines have been revised for further clarification.
It can be surmised that the Section III (c) statement, "When sufficient funds accumulate from repayment of Proposition 13 loans, and the 1984 bond act, projects in Categories II, III and IV will also be eligible to compete," means that funding of a project in Categories II, III, or IV is contingent upon the efficiency of others repaying their loans. The Guidelines should give a clear expectation of when funding will be available from the Proposition 13 loan repayments and the 1984 bond act loans after Category I funds are exhausted.	Because of the transient nature of cash flow projections, it is not appropriate to include the timing of availability of loan repayments for funding of further projects in the Guidelines.
III.D. Construction Funding Process	
What will happen of a Category I project is not ready to proceed to construction prior to a Category II through IV project? Will Category I still be given priority?	At the present time, only Proposition 50 funds are available, and these are restricted to Category I projects, as described under Section III.C above. Categories II through IV do not qualify for Proposition 50 funds.
Will the same prioritization process be used if the available funds are exhausted for Category II through IV projects after all Category I projects have been taken care of?	No. The distribution/priority factors specified in Section III.D only apply to the first batch of complete applications for Category I projects received by the date of adoption of the CPL. Beyond that point and for other funding categories, "readiness-to-proceed" will be the only criterion.

Comment	Response
Item 1: Seems like it may be very important to the Business Case Evaluation (in which a project undergoes a rigorous evaluation of risk, benefits, and costs to determine its net present value) of a project from a wastewater utility point of view.	The net present value of a project usually includes all costs and benefits, regardless of how a project is financed, commonly referred to as life-cycle cost or economic cost. On the other hand, financial feasibility is dependent on financing. We concur that adjusting the grant amount could have an effect on financial feasibility.
Item 2.b: Does "remaining counties" mean remaining Southern California Counties? What is the definition of Southern California?	"Remaining counties" means all counties in the state outside of the six counties specified in item 2.a.
Item 3, disadvantaged communities: Disadvantaged communities are being hard pressed to afford State mandated water projects. In disadvantaged communities such projects are supported by a population with relatively low income levels. Costs of construction and ongoing operations of facilities are causing user rates to skyrocket and are soon to be levied at levels beyond the ability of the low income residents to afford. Small disadvantaged communities are especially hit hard by project costs. Many small communities are required to increase rates 3 and 4 times higher than rates of larger municipalities. It is recommended that if Category I projects on the Competitive Projects List (CPL) exceed the available funding, top priority be given to disadvantaged communities.	The Guidelines have been revised to elevate consideration of disadvantaged communities to the second factor in distributing limited funds.
Item 4.a: The SWRCB draft guidelines for construction funding give priority to projects that are a "Component of a Regional Distribution System." The guidelines need to be changed regarding the definition of a "regional distribution system" and what components are needed to meet this criterion. For example, would a distribution system that spans multiple geographical regions meet this criterion or do multiple agencies need to be included as project partners? There is concern that the definition of "regional" may favor agencies that are structured as wholesaler and retailer versus an agency such as the East Bay Municipal Utility District, which is the sole retailer to more than 1.3 million customers than spans two counties and includes 20 incorporated cities and 15 unincorporated communities.	"Regional distribution system" has the generic meaning the words impart. The term is conceived to include systems that cross institutional boundaries or connect more than one source of recycled water. It could include a project lying solely within the service area of a single water purveyor, but a project with a small recycled water service area located within a district with a large potable water service area would not necessarily be considered a regional distribution system. The characteristics of each proposal will be evaluated in making a determination.
Item 4.b and 4.c: These two items seem to be inverted in priority. What good is a recycled water distribution system without treatment facilities?	Regardless of priority, distribution facilities will not be funded unless the required level of treatment is going to be in place upon completion of construction. In many projects, the treatment facilities are already in place to meet pollution control requirements.

Comment	Response
<p>Item 4.c: The City of Willows would also like to see the priority for Recycled Water Treatment Facilities receive a higher priority in the prioritization of project type. The City's new treatment facility will immediately distribute recycled water for agricultural use. One hundred percent of the new facility's effluent will be reused. Construction of the new treatment facility is the key element in making this recycled water project a reality.</p>	<p>Water recycling involves both treatment and distribution. In many cases adequate treatment is already in place, eliminating a major project component that must be planned and designed. However, if an applicant proposes a project composed of both treatment and distribution system, the project will be ranked with the highest ranking component, the distribution system.</p>
<p>Item 4: We concur that top priority in every category should be assigned to those projects proposed as "components of a Regional Water Distribution System" (III.D.4.a.). As an active participant in the San Francisco Bay Area Regional Water Recycling Program (BARWRP), our area's multi-year regional water recycling planning effort, the City of San Jose and Delta Diablo Sanitation District appreciate the importance of regional coordination in the development of cost-effective water recycling projects. We support your decision to place the highest priority on projects consistent with regional plans, and on those that enhance the feasibility of regional water reuse. We encourage you to maintain this high standard for projects that receive first consideration for funding.</p>	<p>No response needed.</p>
<p>Item 4: Priority Factor No. 4 based on project type lists "Recycled Water Treatment Facilities" third behind the first priority of "Recycled Water Distribution System" and the second priority of "Groundwater Recharge Facilities" on a list of four proposed project types for funding priority. Since the majority of recycled water projects usually involve treatment facilities (third priority) and distribution systems (first priority), the use of this funding priority is unclear. We understand the intent is to give the entire recycled water project a priority ranking based on the highest priority ranking of any component of the project. If this is indeed the case, then the guidelines should be clarified accordingly.</p>	<p>The guidelines have been revised to reflect this recommendation.</p>

Comment	Response
<p>Item 5: While the relative cost of potable and recycled water is an important criterion for customers considering connection to a recycled water system it is not a sufficient indicator of the value of a project to the community, the region or the state. Based on our experience selecting projects for local funding, a more appropriate criteria will not only consider the value of potable water replaced by a given reuse project but will also recognize benefits that accrue from a more reliable and sustainable water supply and an enhanced local and regional environment. From this perspective, we suggest revising this section to include the following language or words to this effect:</p> <p>"5. Prioritizing applications based on the cost of the recycled water projects vs. the value of the benefits it produces, taking into consideration:</p> <ul style="list-style-type: none"> <li>a. The value of the potable water replaced by the use of recycled water;</li> <li>b. The increased reliability of the water supply (including the reliability of the recycled water system itself);</li> <li>c. Benefits to the local or regional environmental, including . . . ."</li> </ul>	<p>In order to be a useful ranking criterion, a cost comparison would have to be easily quantifiable and defensible. The proposed revision would entail a more comprehensive economic analysis to place an economic value on factors such as increased water supply reliability. If non-quantifiable factors are included, as has been recommended, then the criterion becomes too subjective as a ranking tool. The Division reconsidered both the fifth factor and sixth factor, which is prioritizing applications based on the proposed acre-feet per year of recycled water delivered and the amount of potable water augmented. Both factors have weaknesses for determining which projects are better than others. Furthermore, it appears unlikely that the fifth and sixth factors would be needed after consideration of the first four factors. Therefore, the Division has deleted the last two factors in the revised draft Guidelines.</p>
<p>Recycled water is a very important source of water for the entire state of California, in the north as well as in the south. The use of recycled water in Northern California can augment State water and would benefit the Delta. Without financial incentive, it is difficult to implement recycled water projects. It is therefore extremely important for the State to geographically allocate the grant funds, and ensure that a minimum of 40 percent of funds is available for water recycling projects in Northern California.</p>	<p>No response needed.</p>
<p>We would also like to commend the SWRCB for promoting regional projects. Regional reclamation is a concept that many Bay area agencies have been working towards. Regional reclamation would improve recycled water system reliability and redundancy, among many other benefits, to the customers.</p>	<p>No response needed.</p>
<p>We find the prioritization criteria fair and balanced. We urge the SWRCB to adopt the guidelines as is.</p>	<p>No response needed.</p>

Comment	Response
<p>Section III.D.4 explains how proposed projects from Category I will be prioritized should the funding requests from eligible Category I applicants exceed available Proposition 50 funds, with recycled water distribution systems first, groundwater recharge facilities second, recycled water treatment facilities third, and groundwater reclamation last. The Guidelines should explain that construction projects that combine recycled water distribution systems with another project such as a recycled water treatment facility will take a higher priority. The Guidelines should also address how projects will be judged when a lower prioritized project type has equal benefit as a higher prioritized project type.</p>	<p>The Guidelines have been revised to provide that a project containing two or more project types will be ranking with the highest ranking type. This ranking by project type does not involve consideration of other relative benefits of projects.</p>
<p>Project priority factor No. 6 should be ranked higher; at least to No. 4. Volume of water saved is the true objective, and once past the "equity" factors (Nos. 1-3), should be the highest consideration.</p>	<p>Priority factors Nos. 5 and 6 have been deleted in the revised draft Guidelines. See the response to the comment on Item 5 in Section III.D above.</p>
<p>III.E. Application Requirements</p>	
<p>Figure 2: What is Project Performance Certification?</p>	<p>Project Performance Certification is defined in Section III.G. It is the funding recipient's certification (after the first year of operation) that the proposed performance objectives have been met.</p>
<p>Table 3, item 8: Is this the equivalent of Life-cycle Costs?</p>	<p>No. Life-cycle costs are generally expressed as net present worth of all capital, operation, and maintenance costs over the useful life of a facility. The life-cycle costs may also be expressed as equivalent annual costs or cost per unit of project output, such as recycled water deliveries. The determination and comparison of life-cycle costs are the basis of an economic analysis. The estimated construction cost and annual operation and maintenance cost specified in Table 3 are needed for calculation of life-cycle costs but these costs are also part of determination of financial feasibility by determining project cash flow, referred to in these guidelines as a Construction Financing Plan and Revenue Program.</p>
<p>Environmental documents seem appropriate for construction grants and loans but not for planning studies as required for planning grants.</p>	<p>As noted under Section II.D above, the requirement for environmental documents as part of a grant-funded planning study has been eliminated in the draft Guidelines.</p>

Comment	Response
Recycled water market assurances seem appropriate for construction grants and loans but not for planning studies as required for planning grants.	The purpose of planning grants is to assist agencies to do the necessary planning to be ready to apply for state funding for design and construction. Market assurances are an essential planning task. The guidelines have been revised to clarify that only preliminary recycled water market assurances are required as part of the planning grant.
Section III.E.2: To address an applicant or water purveyor who does not have a locally adopted water conservation program nor is signatory to the Memorandum of Understanding Regarding Urban Water Conservation in California (MOU), the Guidelines should include an explanation of what is required in the Water Conservation Plan. This may be as simple as stating that an applicant must provide information that demonstrates consistency with the requirements of the Urban Water Management Plan required under the Urban Water Management Planning Act or consistency with the requirements of the MOU.	The Guidelines have been revised to refer applicants to more detailed water conservation plan guidelines contained in the State Revolving Fund policy.
<b>III.F. Facilities Plan Approval and Preliminary Funding Commitment</b>	
2nd paragraph, last sentence: Reword "milestone" to "project milestone".	The intent seems to be clear without revision.
The 90-day extension provision might not be sufficient for a very complex project with a cost of up to \$20 million. With a very complex project 90 days is a short timeframe.	The project schedule that is approved as part of the Facilities Plan Approval and preliminary funding commitment is based on the schedule submitted by the applicant. An applicant is expected to take the project complexity into consideration in developing the schedule and to allow for uncertainties.
<b>III.G. Plans and Specifications Approval</b>	
What are "project performance standards"?	The project performance standards are objectives of water quality and recycled water deliveries to be achieved during the first year of operation. The standards are based on (1) project objectives stated in the Facilities Plan Approval and (2) the design criteria for meeting the objectives specified in the Final Plans and Specifications Approval.

Comment	Response
What if the project performance standards are not met by the first years? Are there any penalties? What will happen if the data do not demonstrate performance in accordance with the agreed-upon standard? How will this affect funds already distributed?	There are no specified penalties for failure to meet the project performance standards. However, such a failure could be considered a breach of the funding agreement and could result in the return of state funds. Division staff will need to evaluate the situation should it happen.
It is suggested that the project performance standards focusing on the quality of the recycled water to be produced be discussed and determined earlier in the approval process, perhaps at the Facilities Plan Approval and Preliminary Funding Commitment stage. Making any major changes during the final Plans and Specification approval stage could result in costly change orders or project delays.	Water quality issues would be addressed during facilities planning and any facilities in the eligible project intended to address water quality would be defined in the Facilities Plan Approval. The project performance standards are based on the scope of the project approved in the Facilities Plan Approval. The Guidelines have been revised for clarification.
<b>III.H. Funding Agreement and/or Contract</b>	
It is stated that "after Water Board staff's review of the bid submittal package, an Agreement-of-Award letter will be issued." For project scheduling purposes, please provide the approximate timeframe allotted for this internal Water Board staff review (e.g., 10 working days).	Review of bid submittal packages historically have had a high priority of staff time, and approvals have typically been issued within 3 weeks.
Table 4: Table 4 lists the bid submittal package requirements that SWRCB staff must approve prior to agreeing to fund a project. One of the requirements is a copy of the lowest acceptable bid proposal. East Bay Municipal Utility District has an in-house Pipeline Construction Division that is responsible for construction of recycled water distribution pipelines. The draft guidelines need to provide clear instructions for agencies with in-house construction resources.	The use of in-house resources is termed force account work in the guidelines. The eligibility of force account costs is addressed in Appendix C of the guidelines. With respect to bidding, because force account work lacks an overt mechanism of determining the most economical cost, the applicant must justify the use of force account work in place of competitive bidding at the time of submittal of final plans and specifications. A cost analysis must be submitted with an itemized engineer's estimate that will become the basis for the maximum grant amount.
<b>III.I. Eligibility Criteria</b>	
Section III.I.1.e: Define "reasonable".	Reasonable costs for emergency backup water supply must be evaluated on the basis on the total project cost and the evaluation of emergency backup compared to alternatives.
Section III.I.2, 3rd bullet: The cost of land, easements, and rights of way could be a substantial cost. Would the SWRCB reconsider including funding these?	Based on past experience, funding of land and rights of way has been difficult to administer, especially due to the difficulty in determining valuation.

Comment	Response
<p>Under Eligible Costs, applicants constructing pipelines or treatment facility capacity, in excess of that which can be utilized within five years of completion of construction, must demonstrate that adequate recycled water demand will be available to support that future capacity and document by “certification” that existing tributary wastewater flows will meet or exceed the capacity of the proposed recycling project at the time of the completion of the project. The Guidelines should clearly explain what constitutes “certification.”</p>	<p>The Guidelines have been revised to replace certification by submittal of documentation.</p>
<p>Section III.I.1.b: (1) It is recommended that the eligibility criteria be modified to include the retrofit cost of converting customer’s sites from potable water to recycled water. These customers are the final users of the recycled water produced and distributed by the water purveyor. The retrofit cost is expensive and customers need financial incentives in order to switch to recycled water.</p> <p>(2) Customer retrofit costs are a significant portion of recycled water project costs and should be eligible for grant funding.</p>	<p>Funding on-site facilities presents issues of retaining public ownership of facilities. For legal and administrative reasons, it has been the policy not to fund on-site facilities unless the land is publicly owned. The financial assistance given to the primary project facilities allows applicants to use local funds for on-site retrofit incentives. Consideration may be given in the future to funding on-site facilities through the SRF program.</p>
<p>Section III.I.1: The criteria should include eligibility for local agencies to obtain funding (seed money) from the state to create a local revolving loan program for potential recycled water customers. A revolving loan program would consist of a fixed interest rate loan from the agency to recycled water customers, for on-site conversion costs, acting as an incentive for the customer to convert to recycled water. Repayment of the loan would allow funding for additional customers to retrofit their sites. This type of revolving loan program to retrofit customers to recycled water has been implemented by several California water districts and has worked very well. It would parallel the Proposition 13 funding program which provides funding to agricultural water districts that have a revolving loan fund to help farmers install water conservation equipment.</p>	<p>All SRF and bond funds must be spent by applicants directly for design and construction activities for costs already incurred. State grants come under a legal restriction that does not allow private use of public funds. The SWRCB will consider this recommendation in the future under the State Revolving Fund loan program.</p>



Comment	Response
III.J. Funding Allowances	
No comments submitted.	
III.K. Construction	
No comments submitted.	
III.L. Operation Reporting Requirements	
No comments submitted.	
III.M. Minimum Use Requirements	
<p>The minimum use requirements could be a difficult level to meet for a project that is going to serve (predominantly) new developing areas, especially if unexpected development slowdown were to occur during project construction. What water demand can you count on and when can you count on it?</p>	<p>The difficulty in predicting future demand has been a chronic problem that has resulted in many projects failing to meet their expected recycled water deliveries. Because of this past experience, the Water Recycling Funding Program places more emphasis on serving existing users while still allowing future capacity based on good market assessment data.</p>
<p>The two minimum usage levels in the Minimum Use Requirements section of the Guidelines should be re-ordered so that the first one corresponds to the first year of project operation and the second one is for the completion of construction. It may be more clearly shown as follows:</p> <p>a. During the first year of project operation, the applicant is expected to deliver at least 25 percent of the eligible project capacity. The applicant will also be expected to deliver the total project capacity in accordance with the schedule of project usage approved in the Facilities Plan Approval.</p> <p>b. At least 50 percent of the total eligible project capacity must serve users that will exist by the time of completion of construction.</p> <p>Use of the terms “total eligible project capacity” and “eligible project capacity” should be more clearly defined.</p>	<p>This section of the Guidelines has been revised to improve clarity.</p>

Comment	Response
<p>It appears that these minimum usage levels are aggressive. In our experience with recycled water use targets, it appears it takes at least two to three years to deliver 25 percent of the eligible project capacity, particularly for those agencies who do not offer direct customer retrofit assistance or funding. It is suggested that the length of time allocated to agencies to meet minimum usage levels be extended to three years instead of one.</p>	<p>Under current Guidelines for minimum use of recycled water, at least 50 percent of total eligible project capacity must serve users that are in existence when project operation commences. It is expected that distribution facilities will be in place to serve all existing users when the project is finished. However, the Guidelines permit the applicant to deliver as little as 25 percent of project capacity in the first year if there is justification for why all existing users cannot be immediately served. Most applicants have been able to deliver 25 percent of project capacity in the first year.</p>
Appendix B. Recommended Planning Outline for Water Recycling Projects	
<p>For a complex water recycling planning project of \$150,000 in planning scope of work, this is a very ambitious scope to complete the report. Also, this outline does not include the environmental review approval process that is previously indicated as required. This would make the scope of work for the planning study even more ambitious for \$150,000.</p>	<p>The \$75,000 grant and the associated matching funding are not intended to limit the amount an applicant can or should spend to complete the facilities planning process. It is understood that complex projects will require more than \$150,000 for adequate analysis. The intent of the state planning grant is to assist the applicant to complete facilities planning and be ready to apply for funding for design and construction of a water recycling project.</p>
<p>Item H.6.a. Coordination with water suppliers, determination of recycled water supplier and needed agreements or ordinances: For a complex project this is tough to accomplish.</p>	<p>We concur that coordination and development of agreements or ordinances can be difficult. Nevertheless, these tasks are essential for a successful project.</p>
<p>Item H.6.d. Commitments from potential users: What does this intend?</p>	<p>For the purposes of receiving Water Recycling Funding Program funding, commitments are required in accordance with Section III.E.1.c (Recycled Water Market Assurances) and Appendix G of the Guidelines. Assurances take the form of mandatory use ordinances or recycled water user contracts with recycled water customers that commit water users to using recycled water in place of potable or other fresh water. For users that are predicted in the future, the assurance take the form of a description of the future users and a schedule of future connection of these users. It may also include a description and timing of installation of additional facilities needed to deliver recycled water to the future users.</p>
<p>Item J.3 and J.4., Draft recycled water mandatory use ordinance or model user contract, drafts of necessary agreements: These are difficult to accomplish in a \$75,000 grant study program.</p>	<p>As stated above, the state grant is not intended to fund all necessary tasks to adequately plan a recycled water project and the minimum local matching funds requirement is not intended to limit the amount an applicant spends to do an adequate study.</p>

Comment	Response
<b>Appendix D. Water Recycling Competitive Project List (CPL)</b>	
Appendix D of the Guidelines should be refined to include the additional questionnaire requirement for clarification of project benefits in order for the SWRCB to appropriately prioritize projects placed on the CPL.	The CPL questionnaire will be posted on the SWRCB Web site and directions to obtain it will be included in announcements. The questionnaire will have questions needed to place projects in the appropriate category on the CPL.
<b>Appendix G. Market Assurances</b>	
For complex planning projects given \$75,000 maximum grant, the level of effort expected in this appendix far exceeds the grant fund capabilities and the needs of a planning study.	We concur that the tasks necessary for adequate planning of a complex water recycling project may significantly exceed the state grant. The grant is not intended to cover all planning costs.
Section 1, requirement for a penalty clause in mandatory use ordinance: Penalties seem excessive. Recommend reducing penalties.	The penalties have been developed through a stakeholder process. A financial penalty is a meaningful incentive for enforcing the use of recycled water in place of potable water.
Section 1, legal authority to enforce mandatory use ordinance: The only way some applicants could use an ordinance would be through a retail water purveyor or possibly a city, county, etc that has the governing authority.	We concur with this statement, which highlights the necessity of working with other agencies early in the planning process. If a mandatory use ordinance does not apply, then a formal user contract would be used.
Section 2, requirement for 10 year user contract: Will most water purveyors agree to this condition?	Applicants have been able to comply with either the mandatory use ordinance or the user contracts provisions specified in the Guidelines.
Section 2, annual amount of recycled water the user agrees to use: Would a range of recycled water usage be more appropriate?	While a user contract can acknowledge fluctuations in use from year to year, the contract should specify an average expected use, which should be based on several years of historic use at the site or similar locations and applications.
Section 2, description of regulatory and water purveyor requirements for on-site retrofit facilities needed: Recommend replacing word "freshwater" with "potable water."	Some applicants serve agricultural or other customers that are not using potable water but still need to make plumbing changes to accommodate recycled water.
Section 2, last paragraph: What is the definition of "most"? This needs more specificity, perhaps 50 percent plus.	"Most" is intended to imply on the order of 90 percent coverage for user contracts without specifying a specific percentage.
<b>Appendix H. Definitions</b>	

Comment	Response
Disadvantaged Community: What references does the median income come from?	The annual median household income is based on the most recent census data or a local survey approved by the SWRCB. Using the 2000 census data, 80 percent of the California average annual MHI is \$37,994.
The definitions generally restate the same information included in the guidelines. The definitions should further define terminology and give precise meanings.	The comment is not specific.